



North Devon Council

Report Date: 3rd July 2023

Topic: Future High Streets Fund: Butchers Row/Cross Street

Report by: SarahJane Mackenzie-Shapland; Head of Place, Property and Regeneration

1. INTRODUCTION

- 1.1. The Future High Street Fund (FHSF) is a central government fund, administered by the Ministry of Housing Communities and Local Government (MHCLG) (now DHLUC) that seeks to support, renew and reshape high streets in a way that drives growth, improves experience and ensures future sustainability.
- 1.2. As members are aware the approved project for FHSF is focusing on 4 interventions: -
 - The Pannier Market/Guildhall and Former abattoir,
 - The acquisition and rejuvenation of 36/37a Boutport Street,
 - The access and reconfiguration of Queen Street/Bear Street car park and
 - Pedestrianisation (10am – 4pm) and public realm improvements to Butchers Row and Cross Street.
- 1.3. This report focuses on the intervention at Butchers Row/Cross Street. This is a scheme to pedestrianise Butchers Row and Cross Street between 10am and 4pm and provide an improved public realm through those streets, linking the investment at 36/37 Boutport Street with the riverfront.
- 1.4. When FHSF funding was granted for Barnstaple it was for 69% of the original ask and as such, the 4 interventions together would not have been deliverable.
- 1.5. Officers took a report to Full Council in February 2021, identifying 6 options, which included redefining the project to match the government funding and NDC borrowing the remainder of the monies to enable all interventions to be delivered.
- 1.6. At Full council members recognised the link between the projects and this once in a lifetime opportunity to transform the heart of Barnstaple. It was resolved that the Capital Programme be varied by £10,944,000 to be funded by external grant of £6,549,000 and through external borrowing of up to £4,395,000 to bring all 4 interventions forward.

2. RECOMMENDATIONS

- 2.1. For members to note the complexities of the design of the public realm improvements for Butchers Row/Cross Street and the benefits and risks associated with it.
- 2.2. Noting the risks set out in the report, Members to note the options (a) to (e) at paragraph 4.17 of this report that are available to us and decide which option to adopt or any alternative solution they would like to be considered.

3. REASONS FOR RECOMMENDATIONS

- 3.1. This is a complex project and officer's wanted to provide members with visibility of the matters being discussed.
- 3.2. To ask Member's for a decision on their preferred way forward given the complexities of the matter.

4. REPORT

4.1 As one of the four interventions being progressed as part of the Future High Street Fund project, the pedestrianisation of Butchers Row and Cross Street from 10am to 4pm and the public realm improvements were seen as a key enhancement of the town; both to improve the visual amenities of the locality, allow for businesses to spill out onto the street and to connect Boutport Street via the High Street to the river.

4.1 The unrestricted use of Butchers Row and Cross Street by vehicular traffic together with provision of on street parking had reduced the viability of both the Butchers Row units and the Pannier market trading space as they had been unable to make use of external space to increase their trading capacity.

4.2 In recent years, through proactive management, there has been a modest revival in the fortunes of Butchers' Row, a unique row of single-storey shops, now home to a variety of independent retailers and cafes. Facing the Pannier Market, this is the most distinctive and characterful street in the town centre, but trading conditions are still fragile. This element of the FHSF package was envisaged to create traffic-free surfaces allowing activities to spill out and create space for mini street markets and outdoor dining.

4.3 It was anticipated that the pedestrianisation of Butchers Row and Cross Street would enable people to move freely from Queen Street car park, into the 'Market Quarter' and an improved direct pedestrianised route to the river frontage, an underused and neglected part of the town running parallel to the High Street. This would prompt the regeneration of this part of the town by increasing footfall and giving confidence to private sector investors and partners to bring forward the delivery of complementary projects set out in the Vision for Barnstaple. We have since been successful with the Cultural Development Fund, which will further enhance this, seeing the refurbishment of Bridge Chambers, an anchor building on the river frontage.

4.4 A permanent traffic order has been secured for the pedestrianisation of Butchers Row and Cross Street between 10am and 4pm already and this part of the project has been implemented.

4.5 The design team have produced a design to RIBA Stage 3 for public realm improvements to Butchers Row and Cross Street, which show a level surface across both streets and the interconnecting element of the high street. The current scheme is included as Appendix A to this report.

4.6 The scheme has had many challenges, not least providing an affordable scheme that minimises maintenance going forward.

4.7 Iterations of the scheme have been presented to the Barnstaple Regeneration Board, Butchers Row and Cross Street tenants/owners and Devon County Council as Highways Authority and more recently to the local U3A accessibility group and the South West branch of the Royal National Institute for the Blind (RNIB).

4.8 The U3A group were generally positive about the proposals and their feedback is summarised below:

- *Very supportive of the level surface and pleased to hear that we had considered long term maintenance.*
- *Concerns about the 'bell bollards' – they are too low and some of their members would struggle to see them. The width at the bottom isn't an issue they just need to be taller.*
- *Questioned the need for some of the bell bollards – particularly bottom corner of Cross Street, top of Cross Street and Butchers Row which are shown on quite narrow parts of the pavement and would be a real obstruction. Are they necessary, could they be replaced with the Barnstaple bollard?*
- *Ideally all bollards would have a white or yellow collar on them to increase visibility*
- *Could we consider a tactile surfacing around the base of any obstructions?*
- *Planters – the brighter the better. Their preference was the gold colour. If that is too much can the ends be painted as shown in the example? I will need to discuss the colour with the internal project team tomorrow.*
- *Can the planters have rounded edges rather than sharp ones?*
- *They also mentioned tree roots as a major issue but I think this has already been considered for the car park.*

4.10 The RNIB have, however, raised some significant concerns with this project.

They advise that shared, level space is not inclusive for people with sight loss and referred the Council to their advice set out in: Kerbs: Detectable Footways, Cycleways and Roads, July 2021. It states:

'Blind and partially sighted people must be able to tell when a footway changes into a cycleway or road. The only proven design for this is a 'detectable' kerb.

The point where a footway changes into a road or cycleway has conventionally been defined with an upstanding kerb. An upstanding kerb is a reliable, robust and detectable physical feature both from a visual and tactile

perspective that continues to work in a broad range of lighting and weather conditions. The standard kerb height in the UK has a 120mm (or 4.7 inch) upstand, which is widely recognised as detectable. Research shows that kerbs with an upstand of less than 60mm are unlikely to be detectable to blind and partially sighted people (Childs et al., 2009).'

It continues

'Local authorities must:

Ensure that where street design proposals which do not address the above points are not approved for installation until the accessibility issues are resolved (i.e. until detectable kerbs are included in proposals). '

4.11 Since receiving this advice, officer's invited representation from the RNIB to Barnstaple to consider the scheme and offer any advice as to how it could be improved. This included reviewing the level, shared space on the Strand. They were very helpful and offered feedback but remained fundamentally concerned with the loss of the kerb as a detectable feature separating the footway from the highway particularly outside of the pedestrianised times.

4.12 The Department for Transport placed a moratorium on shared, level spaces (a shared space is a street or area where people and traffic are not clearly separated) in 2018 whilst they reviewed the safety of this type of scheme but no clear strategy has emerged since. We have been working with DCC officers on the principle of level surfaces who have advised on their current position as follows:

'We've not seen anything further from DfT on the lifting of the moratorium on shared space so we don't have a definite blanket position either way as it will depend on the environment, location and traffic / pedestrian volume conditions. There is now a far greater emphasis on designing for active travel (i.e. LTN 1/20 and updates to the Highway Code support this) and we should be encouraging increased priority for walking and cycling in town centre locations and helping reduce the dominance of vehicles. What we do need to do is ensure that all users are able to use the area safely without confusion and liaising with groups like Royal National Institute of Blind People will help with the design process. We have plenty of recent examples (Queen Street, Newton Abbot; Magdalen Road, Exeter) where we are implementing improvements to the pedestrian environment while ensuring it is an inclusive space and this can be done with subtle but clear demarcations to help vulnerable users of these urban environments.'

4.13 Officers have also spoken to colleagues elsewhere who have progressed public realm improvements in similar environments and have delivered 25mm kerb to provide sufficient demarcation, whilst giving the effect of a level surface.

4.14 The design team working on the Future High Street project have drawn our attention to a Judicial review on this matter (from February 2023), challenging minimal kerbs and seeking more substantial kerbs to separate space for different users. We have sought legal advice as to the implications of the judicial review on any scheme that we bring forward in Butchers Row and Cross Street, and we have received the following legal advice:

The government guidance, that was challenged as part of this JR has not been overturned.

The case resulted from a claim against revised guidance issued by the government in 2022 namely "Guidance on the Use of Tactile Paving Surfaces" and "Inclusive Mobility: A Guide to Best Practice on Access to Pedestrian and Transport infrastructure" which replaced earlier guidance from 1998 and 2002 respectively. The result of the case brought by the claimant was that the court found that there were deficiencies in the consultation carried out by the government but these were not sufficient to require the court to quash the guidance issued. This was substantially on the basis that the government is already reviewing the 25mm minimum kerb height referred to in the former guidance in particular and will likely update its guidance on the research being carried out. It appears that the 25mm minimum was provided for in the previous 1998 guidance and had just been carried over pending the result of this research.

Accordingly, I think the Council can legally rely on these two pieces of guidance, they are still effective in law, but it must be aware that there could be an update to them in terms of kerb height during the year.

In summary therefore:

- *the two pieces of government guidance above still stand in law and were not quashed by the court in this judicial review and*
- *in the judicial review case the government referenced research being undertaken into the 25mm kerb height referenced in the guidance with an update likely during the year which the Council should be aware of and may want to take account of early.*

4.15 In providing this advice, the legal team were clear to remind us of our duty for comprehensive consultation and consideration of the public sector equality duty. The Equality Duty applies to public bodies and others carrying out public functions. It supports good decision-making by ensuring public bodies consider how different people will be affected by their activities, helping them to deliver policies and services which are efficient and effective, accessible to all, and which meet different people's needs. The Equality Duty is supported by specific duties, set out in regulations which came into force on 10

September 2011. The Equality Duty requires public authorities, in carrying out their functions, to have due regard to the need to achieve the objectives set out under s149 of the Equality Act 2010.

We must be satisfied that we have taken into account the impact of this scheme on all parties affected by this project.

4.16 A shared, level surface offers the opportunity for public realm improvements and for businesses to spill out onto the public realm but whilst the streets are only pedestrianised for part of the day, a level surface presents a number of risks:

- Whilst only guidance, the RNIB information is clear that they wish to see a detectable kerb to differentiate between the spaces. In considering the advice of the RNIB we must have regard to our duties in the Equality Act. When the RNIB visited Barnstaple they could not see any obvious solutions to overcome their concerns.
- Government guidance is being reviewed for these spaces and could change as this project progresses.
- DCC need to see detailed designs (RIBA Stage 4) supported by a Mobility Audit and a Healthy Streets assessment before commenting further and it could result in them not adopting the streets going forward, which would result in maintenance liabilities for NDC.

4.17 There are a number of options for NDC going forward (and there may be others Members wish us to explore):

- (a) To continue with a level, shared surface across both Butchers Row and Cross Street – We continue to work with the RNIB, Local U3A group and DCC to find the most appropriate solution for this design for all parties. In doing so Members and officer's need to be aware of the risks set out in paragraph 4.16. The scheme appended to this report would need to be amended to have regard to the advice of both the U3A group and the RNIB, for example, a different colour between the footway/highway, tactile surfaces etc.
- (b) To progress a scheme of public realm improvements across both Butchers Row and Cross Street with a kerb height of 25mm as per minimum kerb height in current government guidance; the risks in this regard remain similar to those set out in paragraph 4.16 given the judicial review earlier this year and referenced in this report.
- (c) To progress a scheme of public realm improvements across both Butchers Row and Cross Street with a standard kerb height. This would enhance the visual amenities of the street, could streamline the palette of materials used across both, limit future maintenance, but would not result in a level surface.

Members would need to consider whether this would have the transformational impact anticipated and whether the resultant scheme would result in value for money.

(d) To put the scheme on hold (retaining the budget) and consider whether it would be possible to progress and implement the pedestrianisation of Butchers Row/Cross Street from its current 10am to 4pm closure to the complete removal of all vehicular traffic at all times, and if this was agreed then proceed with public realm improvements for a level surface.

(e) Remove this element from the Future High Street Fund project.

5 RESOURCE IMPLICATIONS

5.1 The Future High Street Fund has resource implications on the project team, which includes officers from the Place, Property and Regeneration service, Planning, Legal and Finance.

5.2 The budget for this intervention has been currently agreed as £1,385,000 and the current proposed design has been priced at approximately this amount. The options could reduce the overall spend but they would need to be costed by Gates, who is the QS for this project.

6 EQUALITIES ASSESSMENT

6.1 This project needs to carefully consider the Equalities Act and the impact of the proposed scheme. This is set out in the main body of the report and the EIA is being updated.

7 ENVIRONMENTAL ASSESSMENT

7.1 The pedestrianisation of Butchers Row and Cross Street will have a positive impact. The consultants for this project have created a unique sustainability tracker for this work but an Environmental Assessment will also be completed.

8 CORPORATE PRIORITIES

8.1 What impact, positive or negative, does the subject of this report have on:

8.1.1 The commercialisation agenda: The public realm improvements will help drive up footfall in the town centre, increasing spend across the town and including in assets owned by the Council.

8.1.2 Improving customer focus: The works would improve the overall appearance of the town centre but we need to ensure they are accessible for all.

8.1.3 Regeneration or economic development: The works would significantly enhance the appearance of the town centre and link the high street with the waterfront; an important part of the regeneration strategy for Barnstaple.



9 CONSTITUTIONAL CONTEXT

9.1 Part 3 Annexe 1 paragraph 1

10 STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11 BACKGROUND PAPERS

The following background papers were used in the preparation of this report:
(The background papers are available for inspection and kept by the author of the report):

- Barnstaple Vision
- Future High Street Fund bid and associated reports
- RNIB guidance
- DfT guidance

12 STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: SarahJane Mackenzie-Shapland; Head of Place, Property and Regeneration.